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Attorneys for Defendant April Alcorn

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
CALIFORNIA

CHAD MCKINNEY, an individual,
Plaintiff,

v.

APOLLO GROUP, INC.,
UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

Defendants

CASE NO. 07-CV-2373 WQH CAB

**APRIL ALCORN'S NOTICE OF
MOTION AND MOTION TO
DISMISS PLAINTIFF'S
COMPLAINT, OR, IN THE
ALTERNATIVE, MOTION FOR
MORE DEFINITE STATEMENT**

**[FRCP 12(b)(2); 12(b)(5); 12(b)(6);
12(e).]**

**NO ORAL ARGUMENT, UNLESS
REQUESTED BY THE COURT**

Date: October 20, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

TO PLAINTIFF AND HIS ATTORNEY(S) OF RECORD:

PLEASE TAKE NOTICE that on October 20, 2008 at 11:00 a.m., or as soon
thereafter as counsel may be heard by the above entitled Court, located at 940 Front
Street, San Diego, California 92101, Courtroom 4, defendant April Alcorn
("Alcorn") will and hereby does move the Court pursuant to Rules 12(b)(2);

USDC-SOUTHERN DISTRICT CALIFORNIA
CASE NO. 07-CV-2373 WQH CAB

ALCORN'S NOTICE OF MOTION AND MOTION TO DISMISS OR FOR MORE DEFINITE STATEMENT

1 12(b)(5); 12(b)6; and 12(e) of the Federal Rules of Civil Procedure ("FRCP") and
 2 pursuant to the Court's July 22, 2008 Order ("Order") requiring plaintiff to properly
 3 serve Alcorn by September 5, 2008, to dismiss plaintiff's complaint with prejudice
 4 or in the alternative require a more definite statement.

5 This motion is brought on the following grounds: (1) The Court lacks
 6 personal jurisdiction over Alcorn; (2) The Court lacks jurisdiction over Alcorn
 7 since she was never properly served in this matter; (3) The Complaint fails to state
 8 any claims upon which relief may be granted; (4) The Complaint fails to set forth a
 9 short and plain statement of the claim showing that McKinney is entitled to relief;
 10 (5) The Complaint is so vague and ambiguous so as to require plaintiff to provide a
 11 more definite statement; and (6) plaintiff failed to properly serve Alcorn by
 12 September 5, 2008, pursuant to the Court's Order.

13 This motion is based on this notice of motion and motion, the memorandum
 14 of points and authorities, the declarations of Nathan W. Hicks and April Alcorn
 15 filed herewith, and supporting exhibits thereto, the Court's files in this matter, all
 16 supporting documents, evidence and oral argument before this Court at the time of
 17 the hearing, and any other matter properly before the Court.

18 Date: September 8, 2008

SNELL & WILMER L.L.P.

20 By: s/Nathan W. Hicks
 21 Christy Joseph
 22 Nathan W. Hicks
 23 Attorneys for Defendant April
 Alcorn

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PROOF OF SERVICE**McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-7689.

On September 9, 2008, I served, in the manner indicated below, the foregoing document described as **APRIL ALCORN'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT** on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

Chad McKinney 6266 Madeline Street, Apt. #61 San Diego, CA 92115	Plaintiff, Pro Se Tel: (619) 634-3566 TRACKING # 798508102292
United States District Court Attention: Hon. Judge William Q. Hayes Courtroom 4 940 Front Street, Room 4290 San Diego, CA 92101-8900	Courtesy Copy Tel: (619) 557-5600 TRACKING # 792104054237

I am employed in the office of a member of the bar of this court at whose direction the service was made.

☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 9, 2008, at Costa Mesa, California.


Anh Dufour